

otherwise; 7°, That the guardian so appointed shall have ravishment of ward or trespass, and recover damages for the ward's benefit, see *Ratcliffe's case*, 3 Rep. 38 b.; *F. N. B.* 139; *Eyre v. Shaftesbury*, 2 P. Wms. 108, but we have no such specific action of ravishment of ward;³ 8°, That **468** such guardian shall *have the custody of the infant's estate, both real and personal, and have the same actions in relation to them as a guardian in socage.

Appointment by mother.—In *Ex parte Edwards*, 3 Atk. 519, see *Villareal v. Mellish*, 2 Swanst. 536, it was held that the Statute confined the power of appointing a *testamentary guardian to the father only*, and therefore the appointment of a guardian by a mother was absolutely void; and the infant being of his age of fourteen, chose a guardian in Court. But now by the Act of 1834, ch. 291, sec. 3, (Code, Art. 93, sec. 148,)⁴ the appointment of a guardian by the mother of an infant, *by last will and testament*, (there being no father living, of course,) shall be as valid in every respect, and to all intents and purposes, as if such appointment had been made by the father of such infant by will; provided, such mother be capable in law to execute a last will and testament. With respect to the right of the infant to select his own guardian, see *Compton v. Compton*, 2 Gill, 241; *Lefever v. Lefever*, 6 Md. 472.

Illegitimate children.—The Statute also, does not extend to illegitimate children, *Horner v. Liddiard*, cited in *Priestley v. Hughes*, 11 East, 1; the father of an illegitimate child being considered a stranger in this respect, see *Ex parte Dubost*, 18 Ves. Jun. 152, and the appointment of a guardian by a stranger being void; but the course of Chancery has been to grant at once the guardianship to the person whom the father may have nominated, if no objection exist to him, *Peckham v. Peckham*, 2 Cox, 46; *Chatteris v. Young*, 1 Jac. & W. 106.⁵ Considering the State of our law with respect to the relation of a mother to her illegitimate child, it is probable that her appointment of a testamentary guardian to such a child might be justified under the section of the Code above cited.⁶

Appointment by stranger.—Chancery has also given effect to such testamentary appointments of a guardian by a stranger, when for the benefit of the infant, even against the will of the father, as where money is left to an infant with a direction that its education should be committed to certain trustees, and a legacy left to the father on condition that he shall not

³ See *Baumgartner v. Eigenbrot*, 100 Md. 508, for an action by a guardian for abducting and harboring his ward; and *Kenney v. R. R. Co.*, 101 Md. 490, for an action by a father for enticing his child from his service.

⁴ Code 1911, Art. 93, sec. 148.

⁵ The text was affirmed in all respects in *Ramsay v. Thompson*, 71 Md. 315. See also *Sleeman v. Wilson*, L. R. 13 Eq. 36.

⁶ See also *Harlan's Domestic Relations* 90.

The mother is the natural guardian of her illegitimate child, and has the right to its care and custody. *Ramsay v. Thompson*, 71 Md. 317; *Reg. v. Nash*, 10 Q. B. D. 454; *Barnado v. McHugh*, (1891) A. C. 388; *Reg. v. Barnado*, (1891) 1 Q. B. 194. Cf. *Humphrys v. Polak*, (1901) 2 K. B. 385.